

# Professional Standards and Criteria to Hold the Office of Sheriff in the State of Florida

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## *Abstract*

*The purpose of this study is to examine Florida's need to adopt professional standards and criteria for the office of sheriff, either through legislation or a constitutional amendment. In the last several years, the Florida Legislature has attempted to set forth qualifications for the office of sheriff on several occasions; the most recent attempt was coordinated by a committee of the Florida Sheriffs Association, known as the Sheriff's Qualifications Committee. This committee met, studied the problem, and recommended an amendment to the Constitution in 1989, 1990, and again in 1991.*

*As the Sheriff's Star points out, the state of Florida is currently very fortunate. The vast majority of Florida sheriffs are well qualified to hold the office, but this research project shows there is no guarantee it will remain so. Therefore, it is incumbent for our lawmakers to enact qualifications to protect our citizens from any future unqualified person holding the office of sheriff in Florida.*

## History

The office of sheriff is one of the oldest recognized offices of authority in our society. The evolution of this esteemed office can be traced back to the very beginnings of people learning to function in organized communities. As history has advised us, only a few thousand years ago, most of the people in what is known as Europe were referred to as "wandering Germanic tribes" or nomads. These very basic, simple tribes originally had one leader who in many cultures would have been referred to as their chief.

Once these groups evolved from primitive hunting and gathering and became involved in more agricultural pursuits, society, as we know it today, first began to organize. This eliminated the need for them to be constantly migrating across vast ranges of territory and enabled them to establish designated communities where they could pursue their agrarian endeavors,

The obvious next step was the beginning of territorial boundaries. In Europe, these boundaries were the original basis of the "feudal system." Territories were ruled by one person who eventually established various positions to assist him in overseeing his small kingdom. Feudalism progressed as a political and economic system from the 9th to approximately the 15th century, and was based on the relationship between the lord of the feudal kingdom and the vassal or (serf) who was held on a condition of homage and service to the ruler of the feudal kingdom.

With the establishment of more and larger fiefdoms, came the need for subdividing the various and different duties required to run a society. Feudal lords began to appoint a chief executive of their primitive court system or a sheriff of the shire (or county).

In those early times when the office of sheriff was created, the person appointed to be the sheriff of the fiefdom obviously had to be someone who could represent the ruler of that area and be extremely loyal to the feudal lord in power at the time.

The early sheriffs' duties encompassed many of the same areas of concern that

modern day sheriffs are still responsible for. The early sheriffs were responsible for the maintenance of law and order, the collection of taxes from the serfs, and the maintenance of a jail, or in some cases a dungeon. Most sheriffs in modern times are constitutionally elected officials; therefore, they are directly responsible to all the citizens in the county.

We have, of course, evolved from a sheriff responsible to a total autocratic form of government to the democratic form of government that we cherish in the United States.

In modern times, the sheriff is the chief executive of the courts of superior jurisdiction in a U.S. county, and is responsible for the maintenance of law and order. In most states, the sheriff is the elected official responsible for maintaining the county correctional facility.

Our modern sheriffs are, as earlier stated, elected by the citizens of the county in which they reside. In most states they are a constitutionally elected officer and their duties are prescribed by the constitution and the statutes of the state in which they serve. Unlike the sheriffs of old who were selected purely on their loyalty and their ability to enforce by sheer physical strength, the modern sheriff is responsible to the constituents in the jurisdiction.

#### Qualifications for Office

The Florida Constitution states, "There shall be elected by the electors of each county, for terms of four years, a sheriff." The only other reference to specific qualifications for the office of sheriff are in Article VI, Section 4 of the Constitution, which states, "No person convicted of a felony, or adjudicated in this or other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability."

In contrast to this obvious lack of qualifications for the office of sheriff, specific qualifications are set forth for most of the other offices established by the Florida Constitution. The governor, lieutenant governor, and members of the cabinet are required to be electors of the state, not less than 30 years old, and must have resided in the state for the preceding seven (7) years. The attorney general must be a member of the Florida Bar for five years preceding election, as is outlined in Article IV, Section 5, (b), Florida Constitution.

The justices of the Florida Supreme Court and the judges of other courts must be electors of the state and reside within the territorial jurisdiction of the court they are presiding over. Justices of the Supreme Court and judges of the District Courts of Appeal must be members of the Florida Bar for ten (10) years preceding election. Circuit Court judges must be members of the Florida Bar for five (5) years preceding election. Unless otherwise provided by general law, county court judges must be members of the Florida Bar for five (5) years prior to election; in counties where the population is less than 40,000, County Court judges must be members of the Florida Bar, unless otherwise provided by law -- Article V, Section 8, Florida Constitution, (1968 as amended 1984).

Our Florida Constitution also outlines that members of the legislature must be at least 21 years of age, an elector, and resident of the district from which elected, and shall have resided in the state for a period of two (2) years prior to their election. (Article III, Section 15 (c), Florida Constitution, 1968). The constitutionally elected office of

county commissioner is also described in the Constitution, stating that commissioners must reside in the district and shall be elected as provided by law, Article IX, Section 5 (e), Florida Constitution (1968 as amended 1984).

In contrast, there are no specific qualifications for district superintendents of schools. When provided by resolution of the district school board, or by special law, and approved by the vote of the electors the district school superintendent may be employed by the school board as provided by general law, rather than elected, which is covered in the Constitution, Article IX, Section 5, Florida Constitution (1968).

Our state legislature has, on numerous occasions, attempted to specify additional qualifications for election to office beyond those prescribed in the Constitution. However, the Florida courts have rejected these legislative initiatives in the past. Some of these examples are *Thomas v. State ex rel. Cobb*, *Wilson v. Newell*, *Owens v. Richardson*, and *Maloney v. Kirk*. In all of these Florida Supreme Court cases, the court declared invalid a statute requiring the different recommendations that had been made to upgrade minimum requirements for everything from the superintendent of schools to the county commission, including the collection of campaign contributions by elected officials.

No county in Florida should risk allowing a person to register and run for the office of sheriff without requiring minimum qualifications as part of the process. In many counties in Florida, the sheriff not only is responsible for maintaining law and order and running the correctional institute for the county, but also, in the mid-size counties, responsible for a \$40 to 60M budget, that he/she has been entrusted to disperse by the taxpayers of the county per Chapter 30, F.S.

### Qualifying for Sheriff in Other States

Six states have, in the last decade, passed legislation providing for professional standards and criteria for an individual seeking the office of sheriff -- Georgia, South Carolina, Ohio, California, Oregon, and Minnesota. It is this writer's opinion that the state of Florida should enact qualifications drawing from the experience of six other states; perhaps the qualifications in counties with a population of 40,000 people or less should be less stringent. However, in the larger metropolitan and more populated counties, more stringent qualifications would be required for anyone seeking the office of sheriff.

The purpose for this is stated very simply in the intent of the qualifications and training requirements of Article I in the General Provisions of the Georgia state law:

*That it is to be in the best interest of the citizens of this state that qualifications and standards for the office of sheriff be determined and set so as to improve both the capabilities and training of those persons who hold the office of sheriff. With the increase of crime continuing as a major social problem in this state, and with the understanding that the sheriff is the basic law enforcement officer of counties of this state, it is declared to be the intent of the General Assembly that proper qualifications and standards be required of the person holding the office of sheriff so as to increase the effectiveness and capabilities of the several sheriffs of this state as law enforcement officers to combat crime.*

Georgia probably has the best comprehensive plan and the best set of qualifications for the office of sheriff. These start with very basic and simple qualifications, such as a person has to be a citizen of the United States, and a resident of the county in which he/she seeks office for at least two years preceding the date of the election. The candidate must be a registered voter and be at least 25 years old prior to the date of qualifying for election to office. The state of Georgia requires a high school diploma or its recognized equivalent in educational training. The state of Georgia further states that a person can not hold office if he/she has been convicted of a felony offense or any offense involving moral turpitude. Candidates must be fingerprinted, with a search made of local, state, and national fingerprint files for any criminal record, and the candidate for the office must give a complete history of places of residences for a period of six years immediately preceding qualification for running for the office. Georgia also requires a complete employment history for the six years immediately preceding qualification date. In subsection C of the Georgia code, no person shall be eligible to hold the office of sheriff unless:

1. *Be a certified peace officer as defined in Chapter 8 of Title 35 within six months of taking office.*
2. *Possesses a two year degree or its equivalent from a college or university.*
3. *Have two years of college or two years experience in the law enforcement field, or*
4. *Have two years of educational training in the law enforcement field.*

Immediately following election every newly elected sheriff is required to complete a training session of no less than six weeks to be conducted by any academy certified by the Georgia Peace Officer Standards and Training Council.

California requires at least a master's degree and/or seven years experience in law enforcement. California and other states, including Ohio, reduce the amount of education required if the applicant has a substantial law enforcement background prior to seeking election. If an individual has five years experience in law enforcement, he/she is required to have an associate's of arts or science degree, not a master's degree, before being qualified to seek office.

An unusual incident occurred in the election of a sheriff in San Mateo County, California. Prior to this time, the state of California, like most states, had not amended its Constitution. The system had for many years operated under the status quo concerning the office of sheriff and other elected officials.

In 1986, incumbent Sheriff Brandan Maguire was running for re-election after serving almost a quarter of a century as the Sheriff of San Mateo County. An unfortunate circumstance that drew national attention to this election was that on April 2nd, just prior to the June 3rd election, Sheriff Maguire died of a heart attack. The only other candidate in the race, James White, then requested that the legislature enact a new law setting forth some procedure to handle elections when the incumbent dies just prior to an election. As it turned out, the election was held on June 3rd as scheduled and the California Court of Appeals ruled it unconstitutional to delay the election just

because of the incumbent's death. Mr. White responded with a suit urging that the election be postponed until the next March, giving him time to campaign on the issues and allowing other candidates an opportunity to enter the race if they so desired.

The result of this unusual race was that Sheriff Maguire received 81,679 votes to Mr. White's 20,839. As an article in the County Almanac, San Mateo County, June 25, 1986 states, "The odd race which had more plot twists than an Agatha Christie novel" drew national media coverage.

The chain of events caused by this race eventually led the California legislature to deal with setting guidelines for the death of an incumbent in an election. It also drew attention to the fact that there were no stringent guidelines or rules of any kind determining the qualifications needed for a person to run for the office of sheriff.

Fortunately the state of Florida has rectified this problem by virtue of §100.111 4(a) and (b), F.S. In the event there is a death prior to an election of a qualified incumbent, the statute provides for a special primary or other means for nominating a replacement candidate. But, as stated earlier, there are no specific guidelines outlining necessary qualifications for any individual wishing to run for the office of sheriff in this state.

#### How Qualified are Florida's Sheriffs?

In the state of Florida the population base and the political landscape are continually changing as we progress through the last eight years of the 20th Century. We must now act to rectify this tremendous problem by outlining specific qualifications for the office of sheriff in the state's 67 counties. While demographic characteristics in many counties have virtually remained unchanged over the last 25 years, many other counties, especially in central and south Florida, have drastically changed in terms of where residents are originally from, their financial status, and their educational level. In many of our counties, sheriff's offices are no longer able to function under the "good old boy" system that has survived for the past 100 years. We now have citizens from many different areas of the country and the world, and they are rapidly becoming more and more involved in the global business community.

Just as the citizens in our state have changed, the applicants for sheriff's deputies have also changed drastically over the last decade. Many of the applicants for the position of deputy sheriff or employees of sheriff's offices are better educated than they were a decade ago, and in a great number of counties we're seeing applicants that were not born and raised in the county of application. Especially in central and south Florida, many of the employees of our agencies are not originally from the state, and in many cases are from and have previous law enforcement experience in other states.

We, of course, still find that many of the northern counties, where demographics have remained virtually unchanged, continue to have many employees in their agencies that are third and fourth generation residents of the county.

An excellent example of these changes in our state was outlined in the July/August 1992 edition of the Sheriff's Star. Berlinger's article (1992) drew the parallel of Joe Higgins who was used in an advertising campaign during the 60's, representing the country sheriff to the nation. The article refers to the stereotyping of sheriffs as the "Boss Hog" type of individual in the television series "Dukes of Hazzard," Sheriff Andy Taylor of the "Andy Griffith" show, and the memorable role played by Jackie Gleason as

the blustering, bumbling Sheriff Buford T. Justice in the movie "Smokey and the Bandit."

As the article points out, the modern sheriff in the state of Florida bears no resemblance to these characters that have unfortunately stereotyped sheriffs in the South for many years. Information supplied by J.M. (Buddy) Phillips, the Executive Director for the Florida Sheriffs Association, shows that sheriffs in Florida today are extremely professional and dedicated to serving the citizens in their counties and the state of Florida.

All but one of Florida's 67 counties elect their sheriffs. In Dade County, an appointed Director of the Metro-Dade Police Department serves as "Sheriff." The Florida Sheriffs Association study shows that the average sheriff in the state of Florida today has 24 years of law enforcement experience, including time served as sheriff. The career totals range from seven years to 43 years with two sheriffs in the top bracket.

Further information from this article revealed that 31 sheriffs have graduated from the F.B.I. National Academy in Quantico, Virginia, the Southern Police Institute in Louisville, Kentucky, or the Florida Department of Law Enforcement's Chief Executive Seminar. Thirty-six sheriffs (53.7%), have earned one or more college degrees and the academic levels they have achieved are as follows:

8	(22.2%)	Associate Degree (2 year)
15	(41.7%)	Bachelor Degree (4 year)
11	(30.5%)	Master's Degree
2	( 5.5%)	Ph.D. or Law Degree

Eleven of the sheriffs in Florida (16.4%), had formerly served as city police chiefs. The typical Florida sheriff is in his mid 40's, which is slightly younger than their predecessors a decade ago. Again, as stated in this article, Florida's dynamic march of progress has made it mandatory for sheriffs to possess a high degree of training, education, and professionalism. It appears that Florida sheriffs have answered the challenge.

As proposed in the beginning of this project, a survey was sent out to the 67 sheriffs in the state of Florida to gather pertinent information about their level of education, training, and many other categories of data. The survey was entitled "The Florida Criminal Justice Executive Institute Survey of Florida Sheriffs," dated April 1992. However, the response rate was lower than expected. Twenty-two responses were received from sheriffs for a 32% return rate.

The survey covered many areas: total number of sworn law enforcement officers; total number of full-time correctional officers; number of full-time civilian employees; total annual operating budget; year round population served; and estimated daily population served. There was further inquiry in the survey as to the three sheriffs that served prior to the current sheriff, their tenure, and their reasons for leaving office (election lost, retirement, resignation, unknown, and other).

Current sheriffs were then queried about the number of years served as sheriff of their county, the number of years employed in the sheriff's office, and the number of years in law enforcement.

Inquiries in this survey also probed into past work experience, breaking it down into different agencies from city to federal law enforcement experience.

The survey further inquired into the different categories of functional areas, the sheriffs may have had experience in, and asked them to indicate the time and years for each category, such as years in planning/budgeting, general administration, investigations, and others. The survey asked each sheriff to rate his work experience as "not relevant", "good preparation," or "excellent preparation" for the office of sheriff.

In concluding this personal evaluation, respondents were asked what type of work experience they did not have but would have been beneficial to them before becoming sheriff. Five sheriffs out of the 22, almost 23%, responded that they would have liked to have had training and/or experience in fiscal or budgetary areas prior to taking the office of sheriff. Unfortunately, the majority of the 22 responding sheriffs did not enter any information in response to this question.

Further information was gathered about the educational level of each sheriff, and also what level of education a person should have to hold the office of sheriff. It was determined that 12 sheriffs (55%) indicated that the exact level of education they each possessed was the level that should be required.

Five sheriffs responded by indicating an educational level lower than what they actually had. Several had master's degrees, but indicated that a sheriff should have at least a minimum education of a bachelor's degree. This represented 23% of the responding sheriffs. Four of the responding sheriffs indicated a level of education higher than what they actually had. This represented 18% of the 22 responding sheriffs.

One sheriff (4%) indicated that he did not know what the minimum educational level should be for the office of sheriff.

The fact that only 22 out of 67 sheriffs responded makes this survey limited in its statistical significance. It would have been much more valuable if a higher percentage of sheriffs responded and answered the questions as honestly and objectively as possible.

In the future, it would probably be received much better by sheriffs in the state of Florida if questionnaires were sent via the Florida Sheriffs Association. This survey was forwarded through the Florida Criminal Justice Executive Institute, which also shows that it is affiliated with the Florida Department of Law Enforcement. Most likely, many sheriffs felt that since the Florida Department of Law Enforcement was involved, it would also be in charge of this study and the information gathered.

## Conclusions

While it is obvious in viewing the qualifications of the 67 sheriffs currently serving in the state of Florida, the majority of our sheriffs are imminently qualified to hold office. However, there is a certain credence to the proposal that the office of sheriff should have a constitutional amendment and the necessary Florida State Statutes to establish qualifications for anyone desiring to run for this office. Currently, in the state of Florida, to be employed in the position of deputy sheriff, there are minimum qualifications set forth by the Criminal Justice Standards and Training Commission. It seems ironic that the state of Florida subjects deputies to more stringent employment requirements than its sheriffs.

It is in the best interest of the citizens of the state of Florida, that qualifications for the office of sheriff be determined and set to improve both the capabilities and training of those persons who hold the office.

It is obvious that any legislative proposal in the future for a constitutional amendment or an enactment of state statutes covering qualifications in this area, would meet some resistance from many of the legislators around the state, and possibly from some sheriffs in the state of Florida.

It is my view that we should not characterize this attempt as a Hamiltonian (rule by the elite) theory of government, as it would probably be perceived by many smaller counties. Nor is it a Jacksonian approach, (to the victor goes the spoils) which unfortunately is still used in many counties when there is a newly elected sheriff.

There has been a committee formulated in the past several years, working closely with the Florida Sheriffs Association and numerous sheriffs, to draft a proposal outlining the qualifications for office. This writer intends to do further research in this area.

One of the research methods will be to gather data necessary for establishing the criteria and qualifications for the office of sheriff. A new survey will be conducted throughout the state. This survey will be an attempt to retrieve as much information from the individual sheriffs. This data might reveal the experience, educational level or other training, and the size of their respective departments.

There is no doubt that professional standards and qualifications need to be set forth in law for persons wishing to seek this office. In the interest of preserving the integrity of the office of sheriff, and in the public trust for the office of sheriff, it is in our best interest that the legislature and the Florida Sheriffs Association work diligently together to ensure these qualifications and standards are put into law in the form of legislative acts or a constitutional amendment.

Captain Hall began his law enforcement career in 1969 at the Medina County Sheriff's Office in Ohio. His law career in Florida includes service in both Pasco County and Polk County. He attended St. Petersburg Community College and Polk Community College. Malcolm's interests are criminal investigations, hostage negotiations, and mobile field force training. He is married with three children.

## References

An Act to Add Section 24004.3 to the Government Code relating to Sheriffs for the State of California.

An Act to Amend Chapter 311, relating to Section 3503.01 of the revised code of the State of Ohio.

An Act to Amend Chapter 11 of Title 23, Code of Laws of South Carolina. (1976).

Berlinger, T. (1992, July/August). Our "real" sheriffs. Sheriff's Star.

County Elects Dead Man Sheriff. (1986, June 25). The County Almanac.

Florida Statutes, Annotated. (1970). West Publishing Company.

Official Code of Georgia Annotated. (1988). Charlottesville, Virginia: The Michie Company.



Oregon State Statute 206.010 through 206.0404, relating to the general duties and qualifications and duties of a sheriff in the State of Oregon.

Robertson, T. (1986, May 31). Sheriffs vote hearing, June 16. San Mateo Times.

Wallbank, W. T., Alastaire, M. T., & Bailkey, N. M. (1962). Civilization past and present (revised edition). Scott, Foresman and Co.